

AIR NAVIGATION

*Exchange of notes at Dublin September 29 and November 4, 1937, with
text of arrangement*

Entered into force November 4, 1937; operative December 4, 1937

51 Stat. 319; Executive Agreement Series 110

The American Minister to the Minister of External Affairs

LEGATION OF THE UNITED STATES OF AMERICA

No. 7

Dublin, September 29, 1937

EXCELLENCY:

Reference is made to the negotiations which have taken place between the Government of the United States of America and the Government of Saorstát Eireann¹ for the conclusion of a reciprocal air navigation arrangement between the United States of America and Saorstát Eireann, governing the operation of civil aircraft of the one country in the other country.

It is my understanding that it has been agreed in the course of the negotiations, now terminated, that this arrangement shall be as follows:

ARTICLE 1

Pending the conclusion of a convention between the United States of America and Saorstát Eireann on the subject of air navigation, the operation of civil aircraft of the one country in the other country shall be governed by the following provisions:

ARTICLE 2

The present arrangement shall apply to Continental United States of America, exclusive of Alaska, and to Saorstát Eireann, including the territorial waters of the two countries.

ARTICLE 3

The term aircraft with reference to one or the other Party to this arrangement shall be understood to mean civil aircraft, including state aircraft used exclusively for commercial purposes, duly registered in the territory of such Party.

¹ The Irish Free State.

ARTICLE 4

Each of the Parties undertakes to grant liberty of passage to and over its territory in time of peace to the aircraft of the other Party, provided that the conditions set forth in the present arrangement are observed.

It is, however, agreed that no regular air route or service may be established or operated to, within or over territory of either Party, with or without a landing there, except by prior consent of such Party.

Any air transport company of either Party applying for operating rights in territory of the other Party, on a route or service between the territories of the two Parties, shall be required to submit its application through diplomatic channels.

ARTICLE 5

The aircraft of each of the Parties to this arrangement, their crews and passengers, and goods carried thereon shall, while within the territory of the other Party, be subject to the laws in force in that territory, including all regulations relating to air traffic applicable to foreign aircraft, the transport of passengers and goods, and public safety and order, as well as any regulations concerning immigration, quarantine and customs.

Subject to the provisions of the preceding paragraph and to the laws and regulations therein specified, the carriage of passengers and the import or export of all merchandise which may be legally imported or exported will be permitted in aircraft of the one Party into or from the territory of the other Party and, subject to the provisions of the preceding paragraph and to the laws and regulations therein specified, the aircraft of the one Party, their crews, passengers and cargoes shall enjoy in the territory of the other Party the same privileges as the aircraft of such other Party, their crews, passengers and cargoes enjoy in that territory, and shall not merely by reason of the nationality of the aircraft be subjected to duties or charges other or higher than those which are or may be imposed on aircraft of the territory referred to, or on aircraft of any foreign country engaged in international commerce, or on their crews, passengers or cargoes, it being understood that in this respect the claimant has the choice of national or most-favored-nation treatment.

Each of the Parties to this arrangement may reserve to its own aircraft air commerce as defined in the last paragraph of this article. Nevertheless the aircraft of each Party may proceed from any aerodrome in the territory of the other Party which they are entitled to use to any other such aerodrome either for the purpose of landing the whole or part of their cargoes or passengers or of taking on board the whole or part of their cargoes or passengers, provided that such cargoes are covered by through bills of lading, and such passengers hold through tickets, issued respectively for a journey whose starting place and destination are not both points between which air commerce has been duly so reserved, and such aircraft, while proceeding as aforesaid, from one aerodrome to another, shall, notwithstanding that both such aero-

dromes are points between which air commerce has been duly reserved, enjoy all the privileges of this arrangement.

The term "air commerce" as used in the preceding paragraphs shall, with respect to the Parties to this arrangement, be understood to mean:—(a) navigation of aircraft in territory of either Party in furtherance of a business; (b) navigation of aircraft from one place in territory of either Party to another place in that territory in the conduct of a business; and (c) the commercial transport of persons or goods between any two points in the territory of either Party.

ARTICLE 6

Each of the Parties to this arrangement shall have the right to prohibit air traffic over certain areas of its territory, provided that no distinction in this matter is made between its aircraft engaged in international commerce and the aircraft of the other Party likewise engaged. The areas above which air traffic is thus prohibited by either Party must be notified to the other Party.

Each of the Parties reserves the right under exceptional circumstances in time of peace and with immediate effect temporarily to limit or prohibit air traffic above its territory on condition that in this respect no distinction is made between the aircraft of the other Party and the aircraft of any foreign country.

ARTICLE 7

Any aircraft which finds itself over a prohibited area shall, as soon as it is aware of the fact, give the signal of distress prescribed in the Rules of the Air in force in the territory in which the prohibited area is situated and shall land as soon as possible at an aerodrome situated in such territory outside of but as near as possible to such prohibited area.

ARTICLE 8

All aircraft shall carry clear and visible nationality and registration marks whereby they may be recognized during flight. In addition, they must bear the name and address of the owner.

All aircraft shall be provided with certificates of registration and of airworthiness and with all the other documents prescribed for air traffic in the territory in which they are registered.

The members of the crew who perform, in an aircraft, duties for which a special permit is required in the territory in which such aircraft is registered, shall be provided with all documents and in particular with the certificates and licenses prescribed by the regulations in force in such territory.

The other members of the crew shall carry documents showing their duties in the aircraft, their profession, identity and nationality.

The certificate of airworthiness, certificates of competency and licences issued or rendered valid by one of the Parties to this arrangement in respect of

an aircraft registered in its territory or of the crew of such aircraft shall have the same validity in the territory of the other Party as the corresponding documents issued or rendered valid by the latter.

Each of the Parties reserves the right for the purpose of flight within its own territory to refuse to recognize certificates of competency and licenses issued to nationals of that Party by the other Party.

ARTICLE 9

The fuel and lubricants retained on board aircraft of either Party arriving in or leaving territory of the other Party shall be exempt from customs duty, even though the fuel and lubricants so retained are used by the aircraft on a flight in that territory, provided that such a flight is part of a journey from or to a place outside that territory.

ARTICLE 10

Aircraft of either of the Parties to this arrangement may carry wireless apparatus in the territory of the other Party only if a licence to install and work such apparatus (which licence must be carried in the aircraft) shall have been issued by the competent authorities of the Party in whose territory the aircraft is registered. The use of such apparatus shall be in accordance with the regulations on the subject issued by the competent authorities of the territory within whose air space the aircraft is navigating. Such apparatus shall be used only by such members of the crew as are provided with a special licence for the purpose issued by the competent authorities of the territory in which the aircraft is registered.

The Parties to this arrangement reserve respectively the right, for reasons of safety, to issue regulations relative to the obligatory equipment of aircraft with wireless apparatus.

ARTICLE 11

No arms of war, explosives of war, or munitions of war shall be carried by aircraft of either Party in or above the territory of the other Party or by the crew or passengers except by permission of the competent authorities of the territory within whose air space the aircraft is navigating.

ARTICLE 12

Upon the departure or landing of any aircraft each Party may within its own territory and through its competent authorities search the aircraft of the other Party and examine the certificates and other documents prescribed.

ARTICLE 13

Aerodromes open to public air traffic in the territory of one of the Parties to this arrangement shall in so far as they are under the control of the Party

in whose territory they are situated be open to all aircraft of the other Party, which shall also be entitled to the assistance of the meteorological services, the wireless services, the lighting services and the day and night signalling services, in so far as the several classes of services are under the control of the Party in whose territory they respectively are rendered. Any scale of charges made, namely, landing, accommodation or other charge, with respect to the aircraft of each Party in the territory of the other Party, shall in so far as such charges are under the control of the Party in whose territory they are made be the same for the aircraft of both Parties.

ARTICLE 14

All aircraft entering or leaving the territory of either of the Parties to this arrangement shall land at or depart from an aerodrome open to public air traffic and classed as a customs aerodrome at which facilities exist for enforcement of customs, passport, quarantine and immigration regulations and clearance of aircraft, and no intermediate landing shall be effected between the frontier and the aerodrome. In special cases the competent authorities may allow aircraft to land at or depart from other aerodromes, at which the above-mentioned facilities have been arranged. The prohibition of any intermediate landing applies also in such cases.

In the event of a forced landing or of a landing as provided in Article 7 not at an aerodrome of the class mentioned in the first paragraph of this article, the pilot of the aircraft, its crew and the passengers shall conform to the customs, passport, quarantine and immigration regulations in force in the territory in which the landing has been made.

The Parties to this arrangement shall exchange lists of the aerodromes in their territories designated by them as customs aerodromes.

ARTICLE 15

Each of the Parties to this arrangement reserves the right to require that all aircraft crossing the frontiers of its territory shall do so between certain points. Subject to the notification of any such requirement by one Party to the other Party, and to the right to prohibit air traffic over certain areas as stipulated in Article 6, the frontiers of the territories of the Parties to this arrangement may be crossed at any point.

ARTICLE 16

As ballast, only fine sand or water may be dropped from an aircraft.

ARTICLE 17

No article or substance, other than ballast, may be unloaded or otherwise discharged in the course of flight unless special permission for such purpose shall have been given by the authorities of the territory in which such unloading or discharge takes place.

ARTICLE 18

Whenever questions of nationality arise in carrying out the present arrangement, it is agreed that every aircraft shall be deemed to possess the nationality of the Party in whose territory it is duly registered.

ARTICLE 19

The Parties to this arrangement shall communicate to each other the regulations relative to air traffic in force in their respective territories.

ARTICLE 20

The present arrangement shall be subject to termination by either Party upon sixty days' notice given to the other Party or by the enactment by either Party of legislation inconsistent therewith.

I shall be glad to have you inform me whether it is the understanding of your Government that the arrangement agreed to in the negotiations is as herein set forth. If so, it is suggested that the arrangement become effective on the 4th day of December, 1937.

Accept, Excellency, the renewed assurances of my highest consideration.

JOHN CUDAHY

His Excellency

EAMON DE VALERA,

*Minister for External Affairs,
Dublin.*

The Minister of External Affairs to the American Minister

DUBLIN

4th November, 1937

EXCELLENCY:

I have the honour to refer to your Note No. 7 of the 29th day of September, in which Your Excellency communicated to me the text of the reciprocal air navigation arrangement between Saorstát Eireann and the United States of America governing the operation of civil aircraft of one country in the other country as understood by you to have been agreed to during the negotiations, now terminated, between the two countries.

The text which you have communicated to me is as follows:—

[For text of arrangement, see U.S. note, above.]

I am glad to assure Your Excellency that the foregoing text is the text which has been accepted by my Government in the course of the negotiations and is approved by them.

In accordance with your suggestion, it is understood that the arrangement will come into force on the 4th day of December, 1937.

Accept, Excellency, the renewed assurance of my highest consideration.

ÉAMON DE VALÉRA
Minister for External Affairs

His Excellency JOHN CUDAHY,
*Envoy Extraordinary & Minister Plenipotentiary
of the United States of America,
Dublin.*